

***** PUBLIC DOCKET *****

**U.S. District Court
Southern District of Indiana (Terre Haute)
CIVIL DOCKET FOR CASE #: 2:18-cv-00559-JRS-DLP**

ECKES v. OCHEL TREE et al
Assigned to: Judge James R. Sweeney II
Referred to: Magistrate Judge Doris L. Pryor
Cause: 42:1983 Prisoner Civil Rights

Date Filed: 12/27/2018
Jury Demand: Both
Nature of Suit: 555 Prisoner Petitions -
Prison Condition
Jurisdiction: Federal Question

Plaintiff

AUSTIN ECKES

represented by **AUSTIN ECKES**
228699
WESTVILLE - CF
WESTVILLE CORRECTIONAL
FACILITY
Inmate Mail/Parcels
5501 South 1100 West
WESTVILLE, IN 46391
PRO SE

V.

Defendant

OCHEL TREE
Sergeant

represented by **David C. Dickmeyer**
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Fifth Floor
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*ATTORNEY TO BE NOTICED***Defendant**

NATHAN DUGGAR
C/O

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ATTORNEY TO BE NOTICED

Diana Lynn Moers
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ATTORNEY TO BE NOTICED

Defendant

WIGAND

represented by **David C. Dickmeyer**
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ATTORNEY TO BE NOTICED

Diana Lynn Moers
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Defendant

AMY WRIGHT

represented by **Douglass R. Bitner**
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Defendant

CHANTELL KNEPP

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ATTORNEY TO BE NOTICED

Defendant

TAYLOR HILL

represented by **Douglass R. Bitner**
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ATTORNEY TO BE NOTICED

Defendant

KELLY LOVELL

represented by **Douglass R. Bitner**
(See above for address)
ATTORNEY TO BE NOTICED

| Date Filed | # | Docket Text |
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| 12/27/2018 | <u>1</u> | CONSENT to Prisoner E-Service by AUSTIN ECKES located at WVCf. Pursuant to General Order 2013-1, documents submitted by AUSTIN ECKES to the court for filing will generate a Notice of Electronic Filing that will constitute official service upon registered users of CM/ECF. If any parties to the case are not registered CM/ECF users, the Clerk of the Court will mail the document via U.S. Postal Service on behalf of the inmate. NOTE: The E-Filing Program does not affect the obligation of other parties to serve copies of documents in accordance with the Federal Rules of Civil Procedure. (DJH) (Entered: 12/27/2018) |
| 12/27/2018 | <u>2</u> | COMPLAINT against NATHAN DUGGAR, TAYLOR HILL, CHANTELL KNEPP, KELLY LOVELL, OCHELTREE, WIGAND, AMY WRIGHT, filed by AUSTIN ECKES. (No fee paid with this filing) (Attachments: # <u>1</u> exhibits including Notices of Lawsuit and Requests for Waivers of Service of Summons, affidavits, and records for administrative remedy, grievance, grievance appeal, and health care)(DJH) (Entered: 12/27/2018) |
| 12/27/2018 | <u>3</u> | MOTION for Leave to Proceed in forma pauperis, filed by Plaintiff AUSTIN ECKES. (DJH) (Entered: 12/27/2018) |
| 12/27/2018 | <u>4</u> | MOTION for Jury Demand filed by Plaintiff, AUSTIN ECKES. (DJH) (Entered: 12/27/2018) |
| 12/27/2018 | <u>5</u> | MOTION for Preliminary Injunction filed by Plaintiff, AUSTIN ECKES. (DJH) (Entered: 12/27/2018) |
| 12/27/2018 | <u>6</u> | MAGISTRATE JUDGE's NOTICE of Availability to Exercise Jurisdiction issued. (DJH) (Entered: 12/27/2018) |
| 12/28/2018 | <u>7</u> | ORDER granting <u>3</u> Motion for Leave to Proceed in forma pauperis - SEE ORDER. Signed by Judge James R. Sweeney II on 12/28/2018. (JRB) (Entered: 12/28/2018) |
| 01/09/2019 | <u>8</u> | MOTION to Produce Supporting Evidence, filed by Plaintiff AUSTIN ECKES. (Attachments: # <u>1</u> Exhibits)(DMW) (Entered: 01/09/2019) |
| 01/18/2019 | <u>9</u> | Order Screening Complaint, Directing Service of Process, Granting Motion for Jury Trial, Directing Response to Motion for Preliminary Injunction, and Granting Motion to Produce Supporting Evidence - The claims remaining in this case are: the First Amendment retaliation claim against Correctional Officer Nathan Duggar; the Eighth Amendment cruel and unusual punishment claims against Sergeant Ocheltree, Correctional Officer Nathan Duggar, and Correction Officer Wigand; and the Eighth Amendment deliberate indifference claims against Nurse Amy Wright, Nurse Chantell Knepp, Nurse Taylor Hill, and Nurse Kelly Lovell. The clerk is directed to issue process to the defendants consistent with the instructions in Section II. Mr. Eckes' motion for jury trial, dkt. <u>4</u> , is granted. Mr. Eckes' motion to consider supporting evidence, dkt. <u>8</u> , is granted. The defendants are directed to file a response to the motion for preliminary injunction contemporaneously with the filing of their answer or |

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| | | other responsive pleading. The clerk is directed to update Mr. Eckes' address. (See Order.) Copies via U.S. Mail pursuant to distribution list. Signed by Judge James R. Sweeney II on 1/18/2019. (DMW) (Entered: 01/22/2019) |
| 01/22/2019 | <u>10</u> | NOTICE of Lawsuit & Waiver Issued by Clerk to: (1) Sergeant Ocheltree; (2) C/O Nathan Duggar; (3) C/O Wigand; (4) Nurse Amy Wright; (5) Nurse Chantell Knepp; (6) Nurse Taylor Hill; and (7) Nurse Kelly Lovell (DMW) (Entered: 01/22/2019) |
| 01/22/2019 | <u>11</u> | Documents for Service by IDOC - re <u>10</u> NOTICE of Lawsuit & Waiver Issued by Clerk, <u>2</u> Complaint, <u>9</u> Order. (DMW) (Entered: 01/22/2019) |
| 01/22/2019 | <u>12</u> | Mail Returned as undeliverable. <u>10</u> NOTICE of Lawsuit & Waiver Issued by Clerk sent to AUSTIN ECKES. (DMW) (Entered: 01/22/2019) |
| 01/22/2019 | <u>13</u> | Mail Returned as undeliverable. <u>11</u> Documents for Service by IDOC sent to AUSTIN ECKES. (DMW) (Entered: 01/22/2019) |
| 01/22/2019 | <u>14</u> | Mail Returned as undeliverable. <u>9</u> Order sent to AUSTIN ECKES. (DMW) (Entered: 01/22/2019) |
| 01/23/2019 | 15 | Resent dkts 9, 10, and 11 which were returned mail- to ECKES at WCF. (MEH) (Entered: 01/23/2019) |
| 02/11/2019 | <u>16</u> | WAIVER OF SERVICE Returned Executed, filed by TAYLOR HILL. TAYLOR HILL waiver sent on 1/22/2019. (Bitner, Douglass) (Entered: 02/11/2019) |
| 02/11/2019 | <u>17</u> | WAIVER OF SERVICE Returned Executed, filed by AMY WRIGHT. AMY WRIGHT waiver sent on 1/22/2019. (Bitner, Douglass) (Entered: 02/11/2019) |
| 02/18/2019 | <u>18</u> | WAIVER OF SERVICE Returned Executed, filed by CHANTELL KNEPP. CHANTELL KNEPP waiver sent on 1/22/2018. (Bitner, Douglass) (Entered: 02/18/2019) |
| 02/18/2019 | <u>19</u> | WAIVER OF SERVICE Returned Executed, filed by KELLY LOVELL. KELLY LOVELL waiver sent on 1/22/2019. (Bitner, Douglass) (Entered: 02/18/2019) |
| 02/18/2019 | <u>20</u> | NOTICE of Appearance by Douglass R. Bitner on behalf of Defendants TAYLOR HILL, CHANTELL KNEPP, KELLY LOVELL, AMY WRIGHT. (Bitner, Douglass) (Entered: 02/18/2019) |
| 02/18/2019 | <u>21</u> | ANSWER to <u>2</u> Complaint , <i>Jury Demand and Affirmative Defenses</i> , filed by TAYLOR HILL, CHANTELL KNEPP, KELLY LOVELL, AMY WRIGHT.(Bitner, Douglass) (Entered: 02/18/2019) |
| 02/18/2019 | <u>22</u> | RESPONSE in Opposition re <u>5</u> MOTION for Preliminary Injunction , filed by Defendants TAYLOR HILL, CHANTELL KNEPP, KELLY LOVELL, AMY WRIGHT. (Attachments: # <u>1</u> Exhibit A-Medical Record of Dr. Byrd) (Bitner, Douglass) Modified on 2/19/2019 to add restriction to Ex A |

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| | | (DMW). (Entered: 02/18/2019) |
| 02/21/2019 | <u>23</u> | NOTICE of Appearance by Destiny Reve Scott Wells on behalf of Defendants NATHAN DUGGAR, OCHELTREE, WIGAND. (Wells, Destiny) (Entered: 02/21/2019) |
| 02/21/2019 | <u>24</u> | WAIVER OF SERVICE Returned Executed, filed by NATHAN DUGGAR. NATHAN DUGGAR waiver sent on 1/22/2019. (Wells, Destiny) (Entered: 02/21/2019) |
| 02/21/2019 | <u>25</u> | WAIVER OF SERVICE Returned Executed, filed by OCHELTREE. OCHELTREE waiver sent on 1/22/2019. (Wells, Destiny) (Entered: 02/21/2019) |
| 02/21/2019 | <u>26</u> | WAIVER OF SERVICE Returned Executed, filed by WIGAND. WIGAND waiver sent on 1/22/2019. (Wells, Destiny) (Entered: 02/21/2019) |
| 02/21/2019 | <u>27</u> | NOTICE of Appearance by Andrew Scheil on behalf of Defendants NATHAN DUGGAR, OCHELTREE, WIGAND. (Scheil, Andrew) (Entered: 02/21/2019) |
| 03/05/2019 | <u>28</u> | Submission of Documents, filed by Plaintiff AUSTIN ECKES. (DMW) (Entered: 03/05/2019) |
| 03/07/2019 | <u>29</u> | MOTION to Strike <u>21</u> Answer to Complaint, filed by Plaintiff AUSTIN ECKES. (DMW) (Entered: 03/07/2019) |
| 03/11/2019 | <u>30</u> | Order Denying Motion to Strike Answer - Mr. Eckes' motion to strike, dkt. <u>29</u> , is denied. Mr. Eckes should raise his objections to the defendants' factual contentions and legal contentions at the appropriate time, such as a response to a motion to dismiss, a motion for summary judgment, or at trial. (See Order.) Copy to Plaintiff via U.S. Mail. Signed by Judge James R. Sweeney II on 3/11/2019. (DMW) (Entered: 03/11/2019) |
| 03/25/2019 | <u>31</u> | ANSWER to <u>2</u> Complaint <i>and Statement of Defenses</i> , filed by NATHAN DUGGAR, OCHELTREE, WIGAND.(Wells, Destiny) (Entered: 03/25/2019) |
| 03/25/2019 | <u>32</u> | RESPONSE in Opposition re <u>5</u> MOTION for Preliminary Injunction , filed by Defendants NATHAN DUGGAR, OCHELTREE, WIGAND. (Wells, Destiny) (Entered: 03/25/2019) |
| 03/25/2019 | <u>33</u> | ORDER SETTING PRETRIAL SCHEDULE AND DISCUSSING DISCOVERY IN PRISONER LITIGATION: This Order sets the schedule for how this action shall proceed. Part I sets forth the pretrial deadlines. Part II discusses various aspects of discovery. Facilitating the discovery process can be difficult, and this Order is issued in an effort to help explain and streamline the process for the parties. The parties should carefully read this Order. *SEE ORDER FOR ADDITIONAL INFORMATION*. Dispositive Motions due by 10/28/2019. Discovery due by 9/26/2019. Signed by Judge James R. Sweeney II on 3/25/2019 (copy mailed to plaintiff).(LBT) |

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| | | (Entered: 03/26/2019) |
| 04/03/2019 | <u>34</u> | MOTION for Request of Production of Documents, filed by Plaintiff AUSTIN ECKES. (Attachments: # <u>1</u> Envelope)(MAT) (Entered: 04/03/2019) |
| 04/03/2019 | <u>35</u> | MOTION for in Camera Review, filed by Plaintiff AUSTIN ECKES. (Attachments: # <u>1</u> Envelope)(MAT) (Entered: 04/03/2019) |
| 04/04/2019 | <u>36</u> | Order Denying Motion for Request for Production of Documents and Denying Motion for In Camera Review - Plaintiff Austin Eckes' motion for request for production of documents, dkt. <u>34</u> , and motion for in camera review, dkt. <u>35</u> , are denied. Mr. Eckes' motions are actually requests for production directed to the defendants. Mr. Eckes is reminded that discovery requests should be served directly to the defendants, not filed with the Court. Nonetheless, the defendants should treat Mr. Eckes' motions as properly served discovery requests. Copy to Plaintiff via U.S. Mail. Signed by Judge James R. Sweeney II on 4/4/2019. (DMW) (Entered: 04/05/2019) |
| 04/05/2019 | <u>37</u> | NOTICE of Substitution of Appearance by Jordan Michael Stover replacing <i>Andrew C. Scheil</i> on behalf of NATHAN DUGGAR, OCHEL TREE, WIGAND (Stover, Jordan) (Entered: 04/05/2019) |
| 04/08/2019 | <u>38</u> | RESPONSE, re <u>31</u> Answer to Complaint, filed by Plaintiff AUSTIN ECKES. (Attachments: # <u>1</u> Envelope)(MAT) (Entered: 04/08/2019) |
| 04/10/2019 | <u>39</u> | Order Denying Motion for Preliminary Injunction - Because Mr. Eckes is no longer incarcerated at WVCf, his motion for preliminary injunction, dkt. <u>5</u> , is denied as moot. (See Order.) Copy to Plaintiff via U.S. Mail. Signed by Judge James R. Sweeney II on 4/10/2019. (DMW) (Entered: 04/11/2019) |
| 04/11/2019 | <u>40</u> | MOTION to Order Defendants to Produce, filed by Plaintiff AUSTIN ECKES. (Attachments: # <u>1</u> Attachment, # <u>2</u> Envelope)(MAT) (Entered: 04/12/2019) |
| 04/12/2019 | <u>41</u> | MOTION to Compel Discovery, filed by Plaintiff AUSTIN ECKES. (Attachments: # <u>1</u> Discovery Requests)(MAT) (Entered: 04/12/2019) |
| 04/12/2019 | <u>42</u> | MOTION for Discovery Order, filed by Plaintiff AUSTIN ECKES. (MAT) (Entered: 04/12/2019) |
| 04/15/2019 | <u>43</u> | NOTICE of Service of Responses to Plaintiff's Request for Production of Documents <u>34</u> , filed by Defendants TAYLOR HILL, CHANTELL KNEPP, KELLY LOVELL, AMY WRIGHT (Bitner, Douglass) (Entered: 04/15/2019) |
| 04/19/2019 | <u>44</u> | MOTION for Subpoenas, filed by Plaintiff AUSTIN ECKES. (Attachments: # <u>1</u> Envelope)(LBT) (Entered: 04/22/2019) |
| 04/22/2019 | <u>45</u> | Order Denying Discovery Motions - Mr. Eckes' motion to order defendants to produce Policy 02-01-113, dkt. <u>40</u> , is denied because it is actually a discovery request. The defendants should treat Mr. Eckes' motion to |



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| | | produce as a properly served request for production. Mr. Eckes' motion to compel discovery, dkt. 41 , is denied as presented for failing to "include a certification that the movant has in good faith conferred or attempted to confer with the person or party failing to make disclosure or discovery in an effort to obtain it without court action." Dkt. 33 at 6 (citing Fed. R. Civ. P. 37(a)(1)). Mr. Eckes' motion for discovery order, dkt. 42 , is denied because it is actually a discovery request. The defendants should treat Mr. Eckes' motion for discovery order as a properly served request for production. Mr. Eckes' motion for subpoenas, dkt. 44 , is denied as unnecessary because Mr. Eckes requests to serve subpoenas on defendants in this action. (See Order.) Copy to Plaintiff via U.S. Mail. Signed by Judge James R. Sweeney II on 4/22/2019. (DMW) (Entered: 04/23/2019) |
| 05/09/2019 | 46 | RESPONSE in Opposition to <i>Motion for Discovery [DN 42]</i> , filed by Defendants TAYLOR HILL, CHANTELL KNEPP, KELLY LOVELL, AMY WRIGHT. (Bitner, Douglass) (Entered: 05/09/2019) |
| 05/16/2019 | 47 | MOTION for Extension of Time to 06/15/2019 <i>To Respond To Discovery (ECF 40,41,42)</i> , filed by Defendants NATHAN DUGGAR, OCHEL TREE, WIGAND. (Attachments: # 1 Text of Proposed Order Order)(Wells, Destiny) (Entered: 05/16/2019) |
| 05/16/2019 | 48 | Letter to the Court from AUSTIN ECKES. (DMW) (Entered: 05/16/2019) |
| 05/16/2019 | 49 | MOTION to Compel Discovery, filed by Plaintiff AUSTIN ECKES. (Attachments: # 1 Exhibits)(DMW) (Entered: 05/16/2019) |
| 05/16/2019 | 50 | NOTICE Regarding Defendant's Defense, filed by Plaintiff AUSTIN ECKES (DMW) (Entered: 05/16/2019) |
| 05/16/2019 | 51 | NOTICE to the Court, filed by Plaintiff AUSTIN ECKES (DMW) (Entered: 05/16/2019) |
| 05/22/2019 | 52 | NOTICE of Service of Initial Disclosures , filed by Defendants TAYLOR HILL, CHANTELL KNEPP, KELLY LOVELL, AMY WRIGHT. (Bitner, Douglass) (Entered: 05/22/2019) |
| 05/22/2019 | 53 | ORDER - granting 47 Motion for Extension of Time to respond to Plaintiff's discovery requests. Defendants shall have up to and including June 15, 2019 to respond to Plaintiff's discovery requests [Dkts. 40 , 41 , 42]. Copy to Plaintiff via U.S. Mail. Signed by Judge James R. Sweeney II on 5/22/2019. (DMW) (Entered: 05/22/2019) |
| 05/30/2019 | 54 | RESPONSE in Opposition re 49 MOTION to Compel , filed by Defendants NATHAN DUGGAR, OCHEL TREE, WIGAND. (Wells, Destiny) (Entered: 05/30/2019) |
| 05/30/2019 | 55 | RESPONSE in Opposition re 49 MOTION to Compel <i>Amended</i> , filed by Defendants NATHAN DUGGAR, OCHEL TREE, WIGAND. (Wells, Destiny) (Entered: 05/30/2019) |
| 05/31/2019 | 56 | MOTION Requesting Subpoenas, filed by Plaintiff AUSTIN ECKES. |





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| | | (DMW) (Entered: 05/31/2019) |
| 06/06/2019 | <u>57</u> | ORDER DENYING MOTION REQUESTING SUBPOENAS - Plaintiff's motion requesting twenty subpoenas, dkt. <u>56</u> , is denied without prejudice. (See Order.) Copy to Plaintiff via U.S. Mail. Signed by Judge James R. Sweeney II on 6/6/2019. (DMW) (Entered: 06/06/2019) |
| 06/07/2019 | <u>58</u> | NOTICE of Service of Responses to Plaintiff's First Set of Interrogatories, filed by Defendants TAYLOR HILL, CHANTELL KNEPP, OCHEL TREE, AMY WRIGHT (Bitner, Douglass) (Entered: 06/07/2019) |
| 06/10/2019 | <u>59</u> | RESPONSE re <u>55</u> Response in Opposition to <u>49</u> MOTION to Compel, filed by Plaintiff AUSTIN ECKES. (Attachments: # <u>1</u> Exhibits)(DMW) (Entered: 06/10/2019) |
| 06/17/2019 | <u>60</u> | ***PLEASE DISREGARD. STRICKEN AT <u>66</u> . ***RESPONSE to Discovery Request from Ocheltree, Duggar, Wigand, filed by Defendants NATHAN DUGGAR, OCHEL TREE, WIGAND.(Wells, Destiny) Modified on 6/19/2019 (DMW). (Entered: 06/17/2019) |
| 06/17/2019 | <u>61</u> | ***PLEASE DISREGARD. STRICKEN AT <u>66</u> . ***RESPONSE to Discovery Request from Sgt. Ocheltree, filed by Defendants NATHAN DUGGAR, OCHEL TREE, WIGAND.(Wells, Destiny) Modified on 6/19/2019 (DMW). (Entered: 06/17/2019) |
| 06/17/2019 | <u>62</u> | ***PLEASE DISREGARD. STRICKEN AT <u>66</u> . ***RESPONSE to Discovery Request from Duggar, filed by Defendants NATHAN DUGGAR, OCHEL TREE, WIGAND.(Wells, Destiny) Modified on 6/19/2019 (DMW). (Entered: 06/17/2019) |
| 06/17/2019 | <u>63</u> | ***PLEASE DISREGARD. STRICKEN AT <u>66</u> . ***ANSWER to Interrogatories from Wigand, filed by Defendants NATHAN DUGGAR, OCHEL TREE, WIGAND.(Wells, Destiny) Modified on 6/19/2019 (DMW). (Entered: 06/17/2019) |
| 06/17/2019 | <u>64</u> | ***PLEASE DISREGARD. STRICKEN AT <u>66</u> . ***RESPONSE to Discovery Request from State Defendants, filed by Defendants NATHAN DUGGAR, OCHEL TREE, WIGAND. (Attachments: # <u>1</u> Exhibit Attachment to Request for Production)(Wells, Destiny) Modified on 6/19/2019 (DMW). (Entered: 06/17/2019) |
| 06/17/2019 | <u>65</u> | ***PLEASE DISREGARD. STRICKEN AT <u>66</u> . ***RESPONSE to Discovery Request from State Defendants, filed by Defendants NATHAN DUGGAR, OCHEL TREE, WIGAND.(Wells, Destiny) Modified on 6/19/2019 (DMW). (Entered: 06/17/2019) |
| 06/19/2019 | <u>66</u> | ENTRY STRIKING DISCOVERY - Federal Rule of Civil Procedure 5(d) (1) and Local Rule 26-2 prohibit the filing of discovery materials except when filed in relation to a motion under Fed R. Civ P. 26(c) or 37, in anticipation of use at trial or on appeal, or in response to a court order. Therefore, the Court hereby STRIKES the following: 1) Response to Discovery Request from Ocheltree, Duggar, Wigand (Dkt. <u>60</u>); 2) |

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| | | Response to Discovery Request from Sgt. Ocheltree (Dkt. 61); 3) Response to Discovery Request from Duggar (Dkt. 62); 4) Answer to Interrogatories from Wigand (Dkt. 63); 5) Response to Discovery from State Defendants (Dkt. 64); and, 6) Response to Discovery Request from State Defendants (Dkt. 65). The Clerk is directed to show Dkts. 60-65 as stricken from the docket. Plaintiff is not obligated to respond to Defendant's discovery requests if such requests were only served by filing them with the Court. (See Entry.) Copy to Plaintiff via US Mail. Signed by Magistrate Judge Doris L. Pryor on 6/19/2019. (DMW) (Entered: 06/19/2019) |
| 06/21/2019 | 67 | MOTION for Extension of Time to 7/19/2019 <i>to Respond to Settlement Demand</i> , filed by Defendants NATHAN DUGGAR, OCHEL TREE, WIGAND. (Attachments: # 1 Text of Proposed Order)(Wells, Destiny) (Entered: 06/21/2019) |
| 06/23/2019 | 68 | ORDER DENYING MOTION TO COMPEL - Plaintiff's motion to compel, dkt. 49 , is denied. To the extent the Defendants did not and still have not received the discovery requests attached to Plaintiff's motion to compel, they are ordered to treat those discovery requests as properly served as of the date of this Order. (See Order.) Copy to Plaintiff via US Mail. Signed by Judge James R. Sweeney II on 6/23/2019. (DMW) (Entered: 06/24/2019) |
| 06/25/2019 | 69 | NOTICE of Service of Response to Plaintiff's Request for Admissions, filed by Defendant KELLY LOVELL (Bitner, Douglass) (Entered: 06/25/2019) |
| 06/26/2019 | 70 | MOTION for Copy of Defendants' Affirmative Defense, filed by Plaintiff AUSTIN ECKES. (DMW) (Entered: 06/26/2019) |
| 06/26/2019 | 71 | MOTION for Assistance with Recruiting Counsel, filed by Plaintiff AUSTIN ECKES. (Attachments: # 1 Exhibit Inmate Trust Account) (DMW) (Entered: 06/26/2019) |
| 06/26/2019 | 72 | MOTION for In Camera Review of Surveillance Video, filed by Plaintiff AUSTIN ECKES. (DMW) (Entered: 06/26/2019) |
| 06/27/2019 | 73 | ORDER GRANTING MOTION FOR ENLARGEMENT OF TIME - granting 67 Motion for Enlargement of Time to respond to Plaintiff's settlement demand. Respondent shall have up to and including July 19, 2019 to respond to Plaintiff's settlement demand. Copy to Plaintiff via US Mail. Signed by Judge James R. Sweeney II on 6/27/2019. (DMW) (Entered: 06/28/2019) |
| 07/01/2019 | 74 | MOTION for Discovery Order, filed by Plaintiff AUSTIN ECKES. (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C)(DMW) (Entered: 07/01/2019) |
| 07/01/2019 | 75 | RESPONSE re 67 MOTION for Extension of Time to 7/19/2019 <i>to Respond to Settlement Demand</i> , filed by Plaintiff AUSTIN ECKES. (DMW) (Entered: 07/01/2019) |
| 07/02/2019 | 76 | RESPONSE in Opposition re 72 MOTION, 74 MOTION , filed by |



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| | | Defendants NATHAN DUGGAR, OCHEL TREE, WIGAND. (Wells, Destiny) (Entered: 07/02/2019) |
| 07/11/2019 | <u>77</u> | RESPONSE in Opposition re <u>74</u> MOTION <i>for Discovery Order</i> , filed by Defendants TAYLOR HILL, CHANTELL KNEPP, KELLY LOVELL, AMY WRIGHT. (Bitner, Douglass) (Entered: 07/11/2019) |
| 07/24/2019 | <u>78</u> | NOTICE of Service of Expert Disclosure, filed by Defendants TAYLOR HILL, CHANTELL KNEPP, KELLY LOVELL, AMY WRIGHT (Bitner, Douglass) (Entered: 07/24/2019) |
| 07/25/2019 | <u>79</u> | CONSENT to Prisoner E-Service by AUSTIN ECKES located at WESTVILLE CF. Pursuant to General Order 2013-1, documents submitted by AUSTIN ECKES to the court for filing will generate a Notice of Electronic Filing that will constitute official service upon registered users of CM/ECF. If any parties to the case are not registered CM/ECF users, the Clerk of the Court will mail the document via U.S. Postal Service on behalf of the inmate. NOTE: The E-Filing Program does not affect the obligation of other parties to serve copies of documents in accordance with the Federal Rules of Civil Procedure. (DMW) (Entered: 07/25/2019) |
| 07/25/2019 | <u>80</u> | MOTION for Court Order re Copies, filed by Plaintiff AUSTIN ECKES. (DMW) (Entered: 07/25/2019) |
| 07/25/2019 | <u>81</u> | MOTION to Depose Defendants, filed by Plaintiff AUSTIN ECKES. (DMW) (Entered: 07/25/2019) |
| 07/25/2019 | <u>82</u> | ORDER DENYING MOTION FOR COUNSEL WITHOUT PREJUDICE - The plaintiff's motion for the appointment of counsel, dkt. <u>71</u> , is denied without prejudice because it provides neither sufficient information to make a determination on the merits nor an acknowledgement of the conditions of the appointment of counsel. The clerk is directed to send the plaintiff a motion for assistance recruiting counsel form with his copy of this Order. (See Order.) Signed by Judge James R. Sweeney II on 7/25/2019. (Attachments: # <u>1</u> Motion for Assistance with Recruiting Counsel Form) (DMW) (Entered: 07/26/2019) |
| 07/25/2019 | <u>83</u> | Order on Pending Motions - Plaintiff's motion requesting a copy of Defendants' affirmative defenses, dkt. <u>70</u> , is granted to the extent that the clerk is directed to send Plaintiff a copy of Defendants' Answers (dockets <u>21</u> and <u>31</u>) along with Plaintiff's copy of this Order. Plaintiff's motion requesting in camera review of prison surveillance video, dkt. <u>72</u> , is denied without prejudice. The State Defendants have through August 2, 2019, to file a notice with the Court informing the Court of the status of the video evidence. Plaintiff's motion to compel discovery, dkt. <u>74</u> , is denied without prejudice. Plaintiff's motion for copies, dkt. <u>80</u> , is granted to the extent that the clerk is directed to send Plaintiff a copy of the public docket sheet along with this Order. (See Order.) Signed by Judge James R. Sweeney II on 7/25/2019. (Attachments: # <u>1</u> Dkt. 21, # <u>2</u> Dkt. 31, # <u>3</u> Public Docket Sheet) (DMW) (Entered: 07/26/2019) |

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| 07/29/2019 | <u>84</u> | NOTICE to Court on Status of Video Evidence , filed by Defendants NATHAN DUGGAR, OCHEL TREE, WIGAND, re <u>83</u> Order on Motion. (Attachments: # <u>1</u> Exhibit A: Supplemental Discovery) (Wells, Destiny) Modified on 7/30/2019 to edit docket text(DMW). (Entered: 07/29/2019) |
| 07/29/2019 | <u>85</u> | Submission of Initial Disclosures, filed by Plaintiff AUSTIN ECKES. (DMW) (Entered: 07/29/2019) |
| 07/31/2019 | <u>86</u> | NOTICE Regarding Settlement Conference, filed by Plaintiff AUSTIN ECKES (DMW) (Entered: 07/31/2019) |
| 08/01/2019 | <u>87</u> | MOTION to Take Deposition from Austin Eckes , filed by Defendants NATHAN DUGGAR, OCHEL TREE, WIGAND. (Attachments: # <u>1</u> Text of Proposed Order)(Wells, Destiny) (Entered: 08/01/2019) |
| 08/02/2019 | <u>88</u> | ORDER GRANTING LEAVE TO DEPOSE INMATE - granting <u>87</u> Motion to Take Deposition. Defendants are granted leave to depose Plaintiff Austin Eckes (DOC # 228699) inmate at the Westville Correctional Facility, at a date to be arranged with the facility until such time as the deposition is concluded. Signed by Judge James R. Sweeney II on 8/2/2019. (DMW) (Entered: 08/02/2019) |
| 08/05/2019 | <u>89</u> | NOTICE of Service of Responses to Plaintiff's Second Request for Admissions, filed by Defendant KELLY LOVELL (Bitner, Douglass) (Entered: 08/05/2019) |
| 08/09/2019 | <u>90</u> | MOTION for cross-examination and Notice to the Court, filed by Plaintiff AUSTIN ECKES. (TMC) (Entered: 08/09/2019) |
| 08/09/2019 | <u>91</u> | MOTION for Freedom of Information Act Order for Defendants to produce policies, filed by Plaintiff AUSTIN ECKES. (Attachments: # <u>1</u> Exhibit) (TMC) (Entered: 08/09/2019) |
| 08/09/2019 | <u>92</u> | MOTION for in camera review, filed by Plaintiff AUSTIN ECKES. (TMC) (Entered: 08/09/2019) |
| 08/09/2019 | <u>93</u> | Submission of Notice of service of expert disclosures, filed by Plaintiff AUSTIN ECKES. (Attachments: # <u>1</u> Exhibit)(TMC) (Entered: 08/09/2019) |
| 08/09/2019 | <u>94</u> | Rebuttal RESPONSE to Defendant's expert witnesses, filed by Plaintiff AUSTIN ECKES. (LBT) (Entered: 08/09/2019) |
| 08/19/2019 | <u>95</u> | ORDER DISCUSSING PENDING MOTIONS - Plaintiff's motion to depose Defendants by written question under Rule 31, dkt. <u>81</u> , is denied as unnecessary. Before the Court is also Plaintiff's motion entitled, "Motion for Cross-Examination," in which he requests the Court to order Defendants' experts to travel to Plaintiff's prison so Plaintiff may question them. This motion, dkt. <u>90</u> , is denied. His motion for disclosure of the policy under FOIA, dkt. <u>91</u> , is therefore denied. Plaintiff also asks the Court to review the use of force policy in camera. This motion, dkt. <u>92</u> , is granted to the following extent. The Court will treat Plaintiff's request as a motion to compel. To expedite briefing on this motion, the Court orders the |

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| | | following: Defendants must file a response to Plaintiff's motion by August 30, 2019. Plaintiff has through September 13, 2019, to reply. Plaintiff filed a notice with the Court stating that, although Medical Defendants disclosed two expert witnesses, they failed to provide a signed report from the expert as required by the Court's Pretrial Schedule. Medical Defendants have through August 30, 2019, to respond to Plaintiff's notice. No reply by Plaintiff is necessary. (See Order.) Signed by Judge James R. Sweeney II on 8/19/2019. (DMW) (Entered: 08/20/2019) |
| 08/20/2019 | <u>96</u> | NOTICE <i>Regarding Settlement Conference</i> , filed by Defendants TAYLOR HILL, CHANTELL KNEPP, KELLY LOVELL, AMY WRIGHT (Bitner, Douglass) (Entered: 08/20/2019) |
| 08/22/2019 | <u>97</u> | RESPONSE in Opposition to the Plaintiff's "Rebuttal Response to the Defendants' Expert Witness" <u>94</u> , filed by Defendants TAYLOR HILL, CHANTELL KNEPP, KELLY LOVELL, AMY WRIGHT. (Bitner, Douglass) (Entered: 08/22/2019) |
| 08/26/2019 | <u>98</u> | NOTICE <i>Regarding Settlement Conference</i> , filed by Defendants NATHAN DUGGAR, OCHEL TREE, WIGAND (Stover, Jordan) (Entered: 08/26/2019) |
| 08/30/2019 | <u>99</u> | RESPONSE in Opposition to Plaintiff's Motion for In-Camera Review, filed by Defendants NATHAN DUGGAR, OCHEL TREE, WIGAND. (Attachments: # <u>1</u> Exhibit A Plaintiff's Motion to Produce the Following Documents, # <u>2</u> Exhibit B Defendants' Response to Plaintiff's Motion to Produce the Following Documents, # <u>3</u> Exhibit C Courts Order in Juan Joseph Flagg v. Terry Redden)(Stover, Jordan) Modified on 9/3/2019 to add links to dks. 92 and 95(DMW). (Entered: 08/30/2019) |
| 09/05/2019 | <u>101</u> | NOTICE of Parties' First Extension of Time, filed by Defendants NATHAN DUGGAR, OCHEL TREE, WIGAND. (Stover, Jordan) (Entered: 09/05/2019) |
| 09/10/2019 | <u>102</u> | NOTICE of Service of Responses to Plaintiff's Request for Admissions dated August 22, 2019, filed by Defendant KELLY LOVELL (Bitner, Douglass) (Entered: 09/10/2019) |
| 09/10/2019 |  <u>103</u> | MOTION for Contempt, filed by Plaintiff AUSTIN ECKES. (LBT) (Entered: 09/11/2019) |
| 09/10/2019 |  <u>104</u> | MOTION to Compel, filed by Plaintiff AUSTIN ECKES. (Attachments: # <u>1</u> Exhibits)(LBT) (Entered: 09/11/2019) |
| 09/10/2019 | <u>105</u> | BRIEF/MEMORANDUM in Support re <u>104</u> MOTION to Compel, filed by Plaintiff AUSTIN ECKES. (LBT) (Entered: 09/11/2019) |
| 09/10/2019 | <u>106</u> | AFFIDAVIT in Support of <u>104</u> MOTION to Compel, filed by Plaintiff AUSTIN ECKES. (LBT) (Entered: 09/11/2019) |
| 09/17/2019 | <u>107</u> | Order Extending Dispositive Motions Deadline - Presently pending are two discovery related motions filed by Plaintiff. Because these motions are not |

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| | | fully briefed and may impact the presentation of evidence during summary judgment, the Court sua sponte extends the dispositive motions deadline to through November 22, 2019. Dispositive motions shall not be filed until the discovery motions have been resolved. (See Order.) Signed by Judge James R. Sweeney II on 9/17/2019. (DMW) (Entered: 09/18/2019) |
| 09/17/2019 | 108 | Order Regarding Counsel for Settlement Conference - If Plaintiff requests the assistance of counsel at a settlement conference, he has through October 1, 2019, to file a motion for counsel with the Court on the provided form. (See Order.) Signed by Judge James R. Sweeney II on 9/17/2019. (DMW) (Entered: 09/18/2019) |
| 09/18/2019 |  109 | MOTION Requesting Copies, filed by Plaintiff AUSTIN ECKES. (TMC) (Entered: 09/18/2019) |
| 09/18/2019 |  110 | MOTION to Appoint Counsel, filed by Plaintiff AUSTIN ECKES. (Attachments: # 1 Exhibit, # 2 Cover Letter)(TMC) (Entered: 09/18/2019) |
| 09/18/2019 |  111 | MOTION TO DEPOSE DEFENDANTS, filed by Plaintiff AUSTIN ECKES. (Attachments: # 1 Attachments, # 2 Cover Letter)(TMC) (Entered: 09/18/2019) |
| 09/18/2019 | 112 | NOTICE re Settlement Conference, filed by Plaintiff AUSTIN ECKES (TMC) (Entered: 09/18/2019) |
| 09/19/2019 |  113 | MOTION Requesting Copies, filed by Plaintiff AUSTIN ECKES. (Attachments: # 1 Envelope)(TMC) (Entered: 09/19/2019) |
| 09/20/2019 | 114 | NOTICE of Parties' First Extension of Time, filed by Defendants NATHAN DUGGAR, OCHEL TREE, WIGAND. (Stover, Jordan) (Entered: 09/20/2019) |
| 09/24/2019 | 115 | Order Discussing Expert Disclosures and Directing Further Briefing - When the Court orders briefing on an issue, the Court expects, at minimum, a brief that addresses the entirety of the applicable rule and provides citation to legal authority to support the parties' positions. In other words, the Court expects a brief that meaningfully confronts the legal and factual issues the Court must resolve. The Medical Defendants shall have through October 7, 2019, to file a supplemental brief that does so. The failure to do so will result in the exclusion of the expert witnesses' testimony. The Medical Defendants should not expect such an additional opportunity in the future. SEE ORDER. Signed by Judge James R. Sweeney II on 9/24/2019. (JRB) (Entered: 09/24/2019) |
| 09/24/2019 | 116 | RESPONSE in Opposition re 104 MOTION to Compel, 103 MOTION <i>for Contempt</i> , filed by Defendants NATHAN DUGGAR, OCHEL TREE, WIGAND. (Stover, Jordan) (Entered: 09/24/2019) |
| 09/25/2019 | 117 | NOTICE <i>to the Court of Plaintiff's Conduct</i> , filed by Defendants NATHAN DUGGAR, OCHEL TREE, WIGAND (Attachments: # 1 Exhibit A: Letter Received 9/10/2019, # 2 Exhibit B: Letter Received 9/17/19) (Stover, Jordan) (Entered: 09/25/2019) |

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| 09/26/2019 | <u>118</u> | NOTICE of Supplemental Filing of Declaration of Michael Ellis, filed by Defendants NATHAN DUGGAR, OCHEL TREE, WIGAND, re <u>116</u> Response in Opposition to Motion. (Attachments: # <u>1</u> Affidavit of Michael Ellis) (Stover, Jordan) (Entered: 09/26/2019) |
| 09/27/2019 | <u>119</u> | ORDER TO SHOW CAUSE - Plaintiff has through October 11, 2019, to show cause why he should not be sanctioned for the alleged misconduct. Sanctions could include at least the dismissal of this action with prejudice. SEE ORDER. Signed by Judge James R. Sweeney II on 9/27/2019.(JRB) (Entered: 09/30/2019) |
| 10/07/2019 | <u>120</u> | RESPONSE Supplement Regarding Expert Disclosures, re <u>115</u> Order, filed by Defendants TAYLOR HILL, CHANTELL KNEPP, KELLY LOVELL, AMY WRIGHT. (Bitner, Douglass) (Entered: 10/07/2019) |
| 10/31/2019 | <u>121</u> | NOTICE to the Court, filed by Plaintiff AUSTIN ECKES (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Envelope) (TMC) (Entered: 11/01/2019) |
| 10/31/2019 | <u>122</u> | RESPONSE re <u>119</u> Order to Show Cause, filed by Plaintiff AUSTIN ECKES. (Attachments: # <u>1</u> Envelope)(TMC) (Entered: 11/01/2019) |
| 11/13/2019 | <u>123</u> | MOTION for Extension of Time to file Dispositive Motions, filed by Defendants NATHAN DUGGAR, OCHEL TREE, WIGAND. (Attachments: # <u>1</u> Text of Proposed Order)(Wells, Destiny) (Entered: 11/13/2019) |
| 11/14/2019 | <u>124</u> | MOTION to Join State Defendant's Motion to Extend <u>123</u> , filed by Defendants TAYLOR HILL, CHANTELL KNEPP, KELLY LOVELL, AMY WRIGHT. (Attachments: # <u>1</u> Text of Proposed Order)(Bitner, Douglass) (Entered: 11/14/2019) |
| 11/18/2019 | <u>125</u> | ENTRY VACATING DISPOSITIVE MOTION DEADLINE - The dispositive motion deadline currently set for November 22, 2019, is vacated. If the action is not resolved based on the issue raised in the Court's order to show cause, dkt. <u>119</u> , the Court will set a new deadline. The defendants' motions regarding the dispositive motion deadline, dkts. <u>123</u> and <u>124</u> , are denied as moot. Signed by Judge James R. Sweeney II on 11/18/2019.(RSF) (Entered: 11/18/2019) |
| 12/16/2019 | <u>126</u> | NOTICE of Appearance by David C. Dickmeyer on behalf of Defendants NATHAN DUGGAR, OCHEL TREE, WIGAND. (Dickmeyer, David) (Entered: 12/16/2019) |
| 12/17/2019 | <u>127</u> | NOTICE of Appearance by Diana Lynn Moers Davis on behalf of Defendants NATHAN DUGGAR, OCHEL TREE, WIGAND. (Moers Davis, Diana) (Entered: 12/17/2019) |
| 01/02/2020 | <u>128</u> | MOTION to Withdraw Attorney Appearance of Jordan M. Stover and Destiny R. S. Wells, filed by Defendants NATHAN DUGGAR, OCHEL TREE, WIGAND. (Attachments: # <u>1</u> Text of Proposed Order) (Dickmeyer, David) (Entered: 01/02/2020) |

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| 01/06/2020 | 129 | NOTICE to the Clerk Regarding Motion to Dismiss, filed by Plaintiff AUSTIN ECKES (Attachments: # 1 Envelope) (TMC) (Entered: 01/06/2020) |
| 01/07/2020 | 130 | ORDER granting 128 Motion to Withdraw Attorney Appearance. Attorney Jordan Michael Stover and Destiny Reve Scott Wells withdrawn. Signed by Magistrate Judge Doris L. Pryor on 1/7/2020. (KAA) (Entered: 01/07/2020) |
| 01/10/2020 |  131 | MOTION to Dismiss, filed by Plaintiff AUSTIN ECKES. (Attachments: # 1 Envelope)(TMC) (Entered: 01/13/2020) |
| 02/10/2020 | 132 | NOTICE of Change of Attorney Information. Consistent with Local Rule 5-3, Diana Lynn Moers Davis hereby notifies the Clerk of the court of changed contact information. (Moers Davis, Diana) (Entered: 02/10/2020) |
| 03/10/2020 |  133 | MOTION for Status of Motion to Dismiss, filed by Plaintiff AUSTIN ECKES. (Attachments: # 1 Envelope)(JRB) (Entered: 03/11/2020) |

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